

In the Supreme Court of the State of Alaska

Norman Randle,
Appellant,

v.

**Bay Watch Condominium
Association,**
Appellee.

Supreme Court No. **S-17570**

Order

Date of Order: **November 20, 2019**

Trial Court Case No. **3HO-18-00247CI**

Appellant Norman Randle moves for a stay of the superior court's order and final judgment dated September 10, 2019. Appellee Bay Watch Condominium Association files its response stating that to obtain a stay of the superior court's final judgment Randle must first post a supersedeas bond in the amount of \$7,500 (which is one and a half times the amount of the superior court's award of \$5,000 in attorney's fees in favor of Bay Watch); and second, post a personal recognizance bond in a nominal amount that will obligate Randle to abide by the judgment of the superior court requiring Randle to provide access to his unit during the pendency of the appeal. Bay Watch also requests the decision on the motion for stay be held in abeyance until Randle agrees to abide by the superior court's order allowing Bay Watch to have access to his unit for inspection and regular maintenance.¹

¹ Bay Watch cross-moves for a settlement conference pursuant to Alaska Appellate Rule 222. Randle filed an opposition to the request for a settlement conference. Bay Watch's cross-motion for a settlement conference is **DENIED**. If the parties later decide they wish to participate in a Rule 222 settlement conference, they may file another request with the court. The parties should understand that if a settlement conference is ordered, it will be conducted in Anchorage.

Alaska Appellate Rule 205 governs stays pending appeal in civil case. The rule states that the supreme court or a justice thereof may stay the enforcement or effect of the judgment of the judgment appealed from “upon such terms as to bond or other matters as may be proper.”² This court takes notice that the superior court issued an order awarding Bay Watch \$5,000 in attorney’s fees in the underlying matter which is the subject of this appeal. While Randle will likely add the court’s attorney’s fee award as a point on appeal, it is reasonable to require Randle to post a supersedeas bond in the amount of the attorney’s fee award as a condition for receiving a stay of the superior court’s final judgment while the appeal is pending.

The motion for stay is **CONDITIONALLY GRANTED IN PART**. As a condition of a stay, Randle is **ORDERED** to post a \$5,000 supersedeas bond. Randle can post the bond in the Homer courthouse or in any other Alaska Court System court. When Randle posts his bond, he shall obtain a receipt and file a copy of the receipt with the Clerk of the Appellate Courts. This court will then issue an order staying in part the superior court’s order and final judgment. **If Randle does not post the bond on or before December 13, 2019, the motion for stay will be denied.** No nominal personal recognizance bond will be required.

The motion for stay is also **DENIED IN PART**. Whether or not a stay is granted, Randle is **ORDERED** to “allow Bay Watch entry through his Unit 1 to gain access to the crawl space for reasonable inspection and repairs to the Building.” (Superior Court Final Judgment at ¶ 3.) In other words, **paragraph 3** of the superior

² It is noted that Randle filed a motion for stay of final judgment in the superior court which was denied.

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court's final judgment is **not stayed** and remains in effect. Randle is required to comply with the superior court's order and Bay Watch's demands for access to the crawl space for reasonable inspection and repairs.

Entered at the direction of an individual justice.

Clerk of the Appellate Courts

Ryan Montgomery-Sythe,
Chief Deputy Clerk

cc: Judge Gist
Trial Court Clerk

Distribution:

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